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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/836,751	04/17/2001	Eric A. Reiners	00-143	7391

7590 12/03/2004

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EXAMINER

LOPEZ, FRANK D

ART UNIT PAPER NUMBER

3745

DATE MAILED: 12/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/836,751	REINERS ET AL.	
	Examiner	Art Unit	
	F. Daniel Lopez	3745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on August 23, 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2,4,21,22,27-29 and 31 is/are allowed.
- 6) ☒ Claim(s) 1,5-7,23-26 and 30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

Applicant's arguments filed August 23, 2004, have been fully considered but they are not deemed to be persuasive.

Applicant's arguments with respect to claim 30 has been considered but is deemed to be moot in view of the new grounds of rejection. The new grounds of rejection are necessitated by the new limitation concerning the third valve (see 112 rejection below).

Applicant's argues that the difference between the instant invention and Krone et al, is that the instant invention has fewer valves controlling two loads, as compared to Krone et al. This may be true, but this supposed difference is not reflected by the claims. The claims use "comprising" (e.g. claim 1 line 6) which indicates that the valve assembly can have more elements (including more valves) in the assembly than those elements specifically mentioned in the claim. Therefore, the limitations of the claims, as written, are met by Krone et al. Note that since this is a final rejection, any amendment limiting the claims to the fewer valves would not be entered, since it would require further search and/or consideration.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

Claim 30 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 30 line 10-11 "a third...valve...arranged to control flow between the hydraulic pressure source and the tank" is wrong, since the third valve controls flow between one of the loads and the tank.

Claim Rejections - 35 USC § 103

Claims 1, 5-7, 23-26 and 30 are rejected under 35 U.S.C. § 103 as being unpatentable over Krone et al. Krone et al discloses a hydraulic system and method of using, comprising first (e.g. 40) and second (part of 18, see e.g. column 2 line 63-64) controllable infinitely variable valves connected to a hydraulic pump (122), by a common inlet (via 30), and to first (34) and second hydraulic loads, respectively; third (e.g. 44) and fourth infinitely variable valves connecting the first and second hydraulic loads, respectively, to tank; with the fourth valve modifying flow between the second valve and second load (for claim 26); and with first (e.g. 52) and second pressure sensors coupled with the outlet of the first and second valves, respectively; but does not disclose that the independent metering valves are an assembly.

Official notice is taken that it is well known to combine a plurality of valves into a valve block assembly, for the purpose of ease of assembly of the system. It would have been obvious at the time the invention was made to one having ordinary skill in the art to combine the plurality of valves of Krone et al into a valve block assembly, for the purpose of ease of assembly of the system.

Conclusion

Claims 2, 4, 21, 22, 27-29 and 31 are allowed.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 3745

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Lopez whose telephone number is (571) 272-4821. The examiner can normally be reached on Monday-Thursday from 6:30 AM -4:00 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ed Look, can be reached on (703) 308-1044. The fax number for this group is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0861.

A handwritten signature in black ink, appearing to read 'F. Daniel Lopez', is written over a horizontal line.

F. Daniel Lopez
Primary Examiner
Art Unit 3745
November 21, 2004